

Message

From: Moritz, Vera [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=FC42FD8127354991AD38B2ACB5C3651A-MORITZ, VERA]
Sent: 2/15/2017 6:02:38 PM
To: 'Carl Spreng' [carl.spreng@state.co.us]; 'Masters - CDPHE, Lindsay' [lindsay.masters@state.co.us]
Subject: DRAFT response to Dave Abelson's question re 5YR my 2 cents

Carl-Lindsay: Nice job editing, Lindsay. Thanks. I made a couple revisions for clarity, see text in red. If OK feel free to send out or let me know and I'll send out -- thanks - Vera

From: Masters - CDPHE, Lindsay [mailto:lindsay.masters@state.co.us]
Sent: Wednesday, February 15, 2017 9:47 AM
To: Carl Spreng <carl.spreng@state.co.us>; Moritz, Vera <Moritz.Vera@epa.gov>
Subject: Re: FW: DRAFT response to Dave Abelson's question re 5YR

Vera and Carl,

I took another look at this - please see my proposed revisions below. After looking at Dave's question again, I though reiterating his question and providing some more structure might be helpful. I also found it cumbersome to try and find the questions referenced so I just put them in the draft email text. Please accept, modify, or ignore as you see fit.

Dave,

Thank you for your email. You requested EPA and CDPHE review their 2012 Five-year Review public engagement activities. Please find our brief review of EPA and CDPHE's 2012 public engagement activities below, as requested. EPA and CDPHE RFLMA coordinators (Vera/Carl) are providing a joint answer to your questions about the 5-year Review process.

In summary, EPA and CDPHE conducted the following public participation activities for the 2012 Five-year Review:

- EPA and CDPHE participated in a meeting on February 13, 2013 with local municipal governments and the Woman Creek Reservoir Authority.
- EPA and CDPHE took meeting questions via email.
- EPA and CDPHE answered questions about the 2012 FYr process and scope as well as Rocky Flats questions that were outside the scope of the Five-year Review.

In February 2012, the State and EPA RFLMA coordinators (Carl and Vera) met with local community members to discuss the 5-year Review process and scope. We answered questions

like “will item xx be included in the 5-year Review?” (See 2012 5 Year Review, Appendix E, Public Participation Summary, table providing summary of questions/answers, Feb. 13, 2012 meeting.) For example, questions answered included the following:

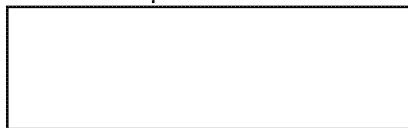
- “...will the Rocky Flats AMP sampling be discussed? If yes, can the review include the purpose and evaluation of AMP results in subsequent 5-year reviews?”
- “...will EPA ask for a careful watch of water quality at the reportable condition locations and will the water quality be addressed in issues, recommendations, and follow-up actions?”

During the 2012 meeting with community members, EPA and CDPHE also answered questions about maintenance and operations that were outside the scope of the Five-year Review. Several of the questions summarized in the response to comments related to topics other than 5-year Review process and scope (see Appendix E, Public Participation Summary). For example, the last question on page 2 asked about OLF closure. The response describes the OLF regulatory process. In addition, a question about potential on dam breaching was asked; this was a RFLMA question, not a 5-year Review question.

The position of the regulatory agencies is that we are happy to talk to anyone about regulatory process and scope any time. However, we cannot discuss any conclusions of the Five-year Review as the Review process is ongoing. Final conclusions will be presented in the final Five-year Review. EPA will provide a letter in response to DOE’s Five-year Review with its independent protectiveness conclusion.

Lindsay

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On Tue, Feb 14, 2017 at 2:54 PM, Moritz, Vera <Moritz.Vera@epa.gov> wrote:

DRAFT DRAFT DRAFT

I incorporated Lindsay's comments as well as Scott's (one of his revisions, about DOE's lead agency position, wasn't applicable in this context). Please review- if OK feel free to send to Dave directly - Vera

Dave -- As you requested, EPA and CDPHE RFLMA coordinators (Vera/Carl) are providing a joint answer to your questions about the 5 year review process. Although statutorily EPA has regulatory approval authority for the 5 YR, the two agencies work very closely and hold the same position on this matter.

In 2012 the State and EPA RFLMA coordinators (Carl and Vera) met with the communities and had discussions about the 5 year review process and scope. In other words, questions about "will item xx be included in the 5 year review?" *See 2012 5 Year Review, Appendix E, Public Participation Summary, table providing summary of questions/answers, Feb. 13, 2012 meeting.*

For example see the second question clarifying the scope of the AMP vs. 5 YR; 3rd and 4th questions, about whether AMP sample results would be included, etc. All of these questions relate to process and scope of the review.

[3rd question-"...will AMP sampling be discussed..." and 4th question - "will water quality be addressed..."]

Several of the questions summarized in the response to comments (public participation summary) related to topics other than 5 year review process and scope. For example, the last question is about OLF closure, and you can see that the response describes the OLF regulatory process. The next to the last question (on dam breaching) is a RFLMA question.

The position of the regulatory agencies is that we're happy to talk to anyone about regulatory process and scope any time. What we cannot discuss is the conclusions of the review.

From: David Abelson [<mailto:dabelson@rockyflatssc.org>]

Sent: Sunday, February 12, 2017 8:55 PM

To: Moritz, Vera <Moritz.Vera@epa.gov>; Spreng - CDPHE, Carl <carl.spreng@state.co.us>

Cc: Rik Getty <rgetty@rockyflatssc.org>

Subject: FW: question about the five year review

Hello Vera and Carl --

Last week Gwen and Scott informed me that DOE would not be able to discuss the substance of the CERCLA Five Year Review and could only discuss the process. This conversation was triggered by the Board's request at the end of the February meeting to discuss with DOE at the April meeting the issues raised in the four comments submitted to the agencies as part of the review. Their reason is that until DOE and the EPA agree on the protectiveness determination, they do not publicly discuss any substantive issues. I was told that over the past year, DOE and EPA have wrangled over a number of protectiveness determinations at other sites, and the two agencies have a policy of not discussing any substantive issues at this phase of the process.

It was subsequently brought to my attention that during the 2012 review, DOE did discuss the review with the Stewardship Council and, particularly, the downstream communities the review. Please note, at the Stewardship Council's February 2012 meeting, DOE did not discuss in any detail the substance of the review despite what Appendix E from that review suggests. Last Friday, I emailed Gwen and Scott and asked how their current position aligns with the agency's actions from 2012. (See the email below and the attached documents.) I would appreciate understanding how your agencies would respond to the question I posed in my email below.

Thanks for your help.

David

Cc: Rik

David M. Abelson

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From: David Abelson [<mailto:dabelson@rockyflatssc.org>]

Sent: Friday, February 10, 2017 9:58 AM

To: Hooten, Gwen; Surovchak, Scott

Subject: question about the five year review

Hello Gwen and Scott --

In follow up to our call from Monday, can you review the public engagement activities from the 2012 review? I am specifically interested in knowing whether the February 2012 conversations DOE had with the Stewardship Council and downstream communities/Woman Creek Reservoir Authority are distinguishable from the substantive conversation some members of the Stewardship Council are currently seeking. You can find mention of those meetings on page 62 of the 2012 review and in Appendix E. Notably, those conversations included briefings and discussions in February 2012; the final approved document is dated July 2012.

Thanks for taking a look and helping me understand how those public engagement activities differ from the current request.

David

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